

IN THE INCOME TAX APPELLATE TRIBUNAL
Mumbai "A" Bench, Mumbai.

Before Shri Sandeep Gosain(JM) & Shri Prabhash Shankar(AM)

ITA No. 2154/MUM/2024 (Assessment Year : 2011-12)

Asha Himmat Bhadra 401 Beach Apartment Balraj Sahani Road Opp. Novotel Hotel Juhu, Mumbai-400 049.	Vs.	DCIT Circle 32(1) Kautilya Bhavan Bandra Kurla Complex, Bandra-E Mumbai-40 0051.
PAN : AABPB7076J		
Appellant		Respondent

Assessee by	:	Shri Vimal Punmiya
Revenue by	:	Shri Aditya Rai
Date of Hearing	:	05/06/2025
Date of pronouncement	:	17/06/2025

O R D E R

Per Sandeep Gosain (JM) :-

The appeal filed by the assessee is against the order dated 14.3.2024 passed by Ld. CIT(A) for A.Y. 2011-12.

2. All the grounds raised by the assessee are inter related and inter connected and relates to challenging the order of Ld. CIT(A) in upholding the additions made under section 68 and 69C of the I.T. Act. Therefore we have decided to adjudicate these grounds through the present consolidated order.

3. We have heard Ld. Counsel of both the parties, perused the material placed on record and judgements cited before us and also orders passed by the revenue authorities. From the records, we noticed that as per the facts of the present case, the assessee purchased 2500 shares of M/s. Splash Media (name changed to Luharuka Media & Infra Ltd. for Rs. 3,27,496/- on 19.8.2015 through Alliance Finstock Ltd., a broker duly registered with SEBI by executing purchase order online on BSE's electronic trading platform for execution of sale and purchase order of securities for which she has received delivery directly in her d-mat account maintained with Axis Bank Ltd. In this regard, copy of purchase bill issued by share broker i.e. Alliance

Finstock Ltd. has been placed on paper book which is at page No. 23. The assessee has made payment thereof on 18.08.2009 through account payee cheque drawn on Axis Bank Ltd. which was cleared on 18.8.2009 itself. The said shares were delivered in D-mat form in the account of D-mat account of assessee on 8.12.2009. In order to support the said contention the assessee had bank statement highlighting the payment made towards purchase and copy of D-mat account which are at page No. 25 to 26 of the paper book.

4. Thereafter the said company had declared Bonus in the ratio of 3:1 on 23.12.2009 i.e. three bonus shares for every share held on record date. Therefore, in this way the assessee was eligible to 7500 bonus shares and the same were credited to assessee's D-mat account thereby total making holding of 10,000 shares as on 31.12.2009. Later on the company split the stock in the ratio of 10:1 i.e. Rs. 10 per share was split into Rs. 1/- per share. Thereby taking the assessee's holding of shares to 1,00,000 shares of Rs. 1/- each as on 2.8.2010. A copy of financial statements of Splash Media Ltd. for F.Y. 2009-10 is also placed on record at page No. 47 to 86 of the paper book.

5. Now the basic contention is that the shares of Splash Media Ltd. were received on preferential basis or in amalgamation or merger of any private company with listed company or in off market transaction as narrated in the proceedings is incorrect. Looking at the volatility and better returns the assessee sold these equity shares at Recognized Bombay Stock Exchange through broker namely M/s. Alliance Finstock Ltd. at various rates for total value of Rs. 1,00,13,050/- and the detailed content in following chart :-

CN No.	Date of Sale	Quantity	Amount	Charges (incl. STT)	Total
29717	14-12-2010	2,500	187502.50	2327.50	185175.00
29823	15-12-2010	3,000	225300.00	2798.00	222502.00

30029	29-12-2010	6,000	428400.00	5319.00	423081.00
30951	30-12-2010	5,000	361250.00	4486.00	356764.00
31103	31-12-2010	4,000	294600.00	3654.00	290946.00
31228	03-01-2011	4,500	340875.00	4228.00	336647.00
32193	13-01-2011	15,000	1293000.00	16044.00	1276956.00
32629	20-01-2011	15,000	1674000.00	20766.00	1653234.00
32839	21-01-2011	25,000	3012500.00	37403.00	2975097.00
33146	28-01-2011	20,000	2194000.00	27241.00	2166759.00
		1,00,000			

6. The assessee realized the sale consideration in her saving bank account of Axis Bank Ltd., Malad and in this regard a copy of bank statements showcasing the payments received from the broker on account of shares sold by the assessee at page No. 19-22 and the copy of sale bills/contract notes issued by the assessee's broker for sale of shares are at page No. 27-36 of the paper book.

7. It is important to mention that the price of script M/s. Slash Media Ltd. was being determined, at recognized stock exchange, which is not in control of assessee. However, just because the Income Tax Department got the information from the Investigation Wing that M/s. Splash Media Ltd. is a penny stock, in her view it does not mean that the assessee has indulged into misappropriation. In this regard, reliance is being placed upon the decision in the case of Vinay Kumar Dhingra HUF Vs. ITO by the Coordinate Bench of ITAT Delhi dated 28.6.2021, wherein all the facts of the transactions are similar to the case of the assessee.

8. Moreover, the Ld. AR has also relied upon the decision of the Coordinate Bench of the ITAT in the case of sister of the assessee titled Varshaben Laherikant Bhadra Vs. ITO (ITA No. 1665/Mum/2024 dated 19.5.2025), wherein it was held as under :-

“8. We have heard the rival submissions and also perused the relevant findings in the impugned orders. Apart from the fact that the shares were purchased and sold only on electronic platform of Bombay Stock Exchange through registered stock broker from SEBI after paying STT, it has been brought on record by the Ld. Counsel that husband of the assessee was a regular trader and investor in shares and assessee had also made investments in several other shares. Thus assessee was also a regular investor in shares. During the course of hearing we had enquired from the assessee whether there is any investigation or finding of the SEBI on the scrip of M/s. Splash Media & Infra Ltd., now known as Luharuka Media & Infra Ltd. It has been brought on record that on 31.10.2017 the department had sent a letter along with the report of Director of Income Tax, Investigation, Kolkata with regard to investigation of the scrip of M/s. Splash Media & Infra Ltd. The General Manager, Investigation Department of SEBI vide report dated 11.10.2017 have submitted the report of the Investigation Wing and also to the ACIT, Central Circle -4(4), Mumbai that the investigation of SEBI did not find violation of provisions of the [SEBI Act, 1992](#) and SEBI (PFUTP) Regulations. Along with the letter there is a confidential report given to Pr.DIT (Investigation), Kolkata which had sought for the information regarding the alleged manipulation in market price of shares of certain companies including M/s. Splash Media & Infra Ltd. The SEBI in his report has analysed the volume and price of the trading of the M/s. Splash Media & Infra Ltd. for various patch starting Varshaben Laherikant Bhadra from 15.09.2009 onwards. In their exhaustive report they categorically stated that there was no manipulation pattern observed in the trading of M/s. Splash Media & Infra Ltd. and therefore no adverse inference is drawn. The report deals with all the buyers and the sellers of the scrip in the Stock Exchange in various periods and after detailed examination and inquiry, in the report it is categorically stated that in none of the period there was no specific instance or manipulative pattern which can show that price was rigged or scrip was manipulated to provide any accommodation entry. Thus it was reported that there was no manipulation and no adverse has been drawn. Since it is an exhaustive report, therefore the contents of the same cannot be reproduced. This SEBI report itself clarifies the doubts of the Id. AO and also Director, Investigation Wing, Kolkata who had specifically referred this matter that it should be further investigated by the SEBI. SEBI did not find any manipulation in the prices or that the prices were rigged by some entities either by the buyers or by the sellers and no adverse inference have been drawn even with regard to the exit providers. Thus, the SEBI report itself absolves the case of the assessee.

9. Moreover, the entire premise of the Id. AO is based on that the DIT (inv.) Report which itself has been clarified by the SEBI to the Investigation Wing to whom specific information was shared by the Pr.DIT, Investigation, Kolkata. Once in the investigation it has been held that there was no manipulation in the scrip of M/s. Splash Media & Infra Ltd., and the trading at Bombay Stock Exchange was genuine and the prices quoted in Varshaben Laherikant Bhadra the Stock Exchange over the time were in accordance with the SEBI Rules and Regulations, no adverse can be drawn in the case of assessee. Accordingly, in view of the documents

submitted by the assessee as well as the report of the SEBI specifically with regard to the M/s. Splash Media & Infra Ltd., the transaction of purchase and sale of shares online through Bombay Stock Exchange cannot be held to be bogus or non- genuine and accordingly, addition of Rs.1,00,99,878/- made u/s. 68 of the Act is deleted. Consequentially, the adhoc commission made @3% is also deleted.

10. In the result, appeal of the assessee is allowed.”

9. We noticed that the Coordinate Bench of ITAT in the case of sister of the assessee has dealt with the same script regarding same assessment year and had deleted the addition by recording well reasoned order. Apart from this, Ld. AR has also relied upon number of other cases, wherein also same script was dealt with by the Coordinate Bench of ITAT. The details of which is as under :-

1. Damyanti Mundhra Vs. ITO, Ward-55(5), New Delhi. ITA No. 1721/DEL/2019
2. Amit H. Patel (HUF) Vs. DCIT-CC 3(4) ITA Nos.5761, 5762,5764 & 5765/M/2019
3. Gopal Chand Mundhra and Sons Vs. ITO, Ward-55(5), New Delhi. ITA No. 1375/DEL/2019
4. Ramdev Mundhra Vs. ITO, Ward-55(5), New Delhi. ITA No. 1722/DEL/2019
5. Shriya Devi Mundhra Vs. ITO, Ward-55(5), New Delhi. ITA No. 1523/DEL/2019
6. Gopal Chand Mundhra Vs. ITO, Ward-55(5), New Delhi. ITA No. 1524/DEL/2019
7. Ramprasad Agarwal v. Income Tax Officer 2(3)(2), Mumbai ITA No. 1228 and 4843/Mumbai/2018.

10. Therefore considering the totality of the facts and circumstances of the present case and also taking into consideration the decision of the Coordinate Bench in the same script more particularly in the case of sister of the assessee, wherein the same script and the same assessment year is involved and hence adhering to the principles of judicial consistency and judicial discipline, we also allow the grounds raised by the assessee and direct the Ld. AO to delete the additions made under section 68 & 69C of the Act.

11. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open Court on 17/06/2025.

Sd/-
(PRABHASH SHANKAR)
ACCOUNTANT MEMBER

Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

PS

BY ORDER,
(Assistant Registrar)
ITAT, Mumbai